

## **DETAILED ACTION**

### ***Response to Amendment***

The examiner acknowledges amendments dated 8/6/2009. With the amendments, claims 1-4, 6-9, 13-15, 17-18, and 22-25 remain pending. Claims 1, 8, and 25 are amended. Claims 5, 12, 16, 19, 21 have been cancelled. The amendments have been accepted as proper in that no new material has been added.

### ***Response to Arguments***

Applicant's arguments, see Remarks, filed 8/6/2009, with respect to amended have been fully considered and were not persuasive. However, the examiner perceived that the difference between what was proposed and what would make the claims allowable were small. The Examiner proposed some changes and initiated an interview with the attorney and negotiated additional amendments to place the case in condition for allowance.

## **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Melissa Lyons on 12/7/2009.

The application has been amended as follows:

Replace claims 1, 9 and 25 as presented below:

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1. A drum stick holder, comprising an elastomeric material body, the body comprising a plurality of substantially parallel tubular sleeves, each sleeve extending between opposite sleeve ends and being joined to at least one adjacent sleeve by an interposed web of the elastomeric material and having at one or both of said ends an entrance with dimensions suitable for receiving just one drum stick, wherein at least one of the sleeves has an entrance at both of said ends and each sleeve is formed from an integral tube of elastomeric material that extends fully around a longitudinal axis of the sleeve, wherein: each entrance is fully open and said plurality of sleeves are arranged in a single row so that each sleeve may hold a drum stick inserted into the entrance at one or both of said ends of said sleeve.

9. A drum stick holder as claimed in Claim 1, in which each of said body, sleeves, and web is integrally moulded as an extrusion.

25. An accessory for a percussion instrument comprising a drum stick holder and at least one drum stick, said holder having at least one elastomeric sleeve and the drum stick being inserted partially into said sleeve to expand at least to some degree the sleeve so that the sleeve thereby holds or grips the drum stick, wherein the drum stick holder comprises a elastomeric material body comprising a plurality of substantially parallel tubular sleeves, each sleeve extending between opposite sleeve ends and being joined to at least one adjacent sleeve by an interposed web of the elastomeric material and having at one or both of said ends an entrance with dimensions suitable for receiving just one drum stick, wherein at least one of the sleeves has an entrance at both of said ends and each sleeve is formed from an integral tube of elastomeric

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material that extends fully around a longitudinal axis of the sleeve and each entrance is fully open and said plurality of sleeves are arranged in a single row so that each sleeve may hold a drum stick inserted into the entrance of said sleeve.

***Allowable Subject Matter***

Claim 1-4, 6-9, 13-15, 17-18, and 22-25 are allowed.

The following is an examiner's statement of reasons for allowance:

Claim 1 is allowable for a drum stick holder, comprising all the indented limitations in combination, but especially

an elastomeric material body...substantially parallel tubular sleeves...joined by an interposed web of elastomeric material...tubes of elastomeric material that extend around a longitudinal axis...sleeves arranged in a single row...entrance at both ends...a drum stick, may be inserted at one or both ends.

The closest prior art is to McLennan (U. S. Patent 5,199,621). The claimed invention distinguishes over McLennan in that the sleeves are part of an elastomeric material body, where each sleeve substantially parallel and is joined by an interposed web of elastomeric material and where the tubes wrap completely around the longitudinal axis of the tube. This contrasts to McLennan where there is combined a rigid, front planar material with apertures, an elastic ribbon through the apertures and a rigid, rear planar material joined together to produce sleeves that do not around a longitudinal axis. Also, McLennan suggests that the sleeves are angularly displaced., not substantially parallel. The applicant suggests that a drum holder of the claimed

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structure, body (one part) incorporating all the necessary structure would be easier to manufacture than the nearest related prior art.

Another prior art is to a holder item is provided by Borawski (U. S. Patent 5,095,645) who teaches a lure card, having a row of parallel, transparent, interconnected, tubular sleeves having upper open end through which lures may be introduced into the sleeves and from which hooks on the lures may be suspended. The outward structure bears a resemblance to claimed invention, however Borawski does not relate to a drum stick holder, is open only on top, and has the form of a rigid, transparent card for holding fishing lures, apparently of a rigid material. There is not disclosed in the prior art a suggestion to combine the utility taught by McLennan and the body shape of the lure card taught by Borawski, into a drumstick holder comprising an elastomeric material body, where elastomeric is interpreted to be a stretchy, flexible material, and having openings at both ends, wherein a drumstick may be inserted into an entrance at one of both ends. Also it is seen that the disclosure by Borawski is somewhat out of the drum holder problem solving area.

Claim 25 is allowable for essentially the drum holder of claim 1 combined with at least one drum stick.

The applicant's argument also support the claim for allowance of the current claims.

Claims 2-4, 6-9, 13-15, 17-18, and 22-24 are allowable for dependence on the allowable independent claim and for the citation of additional distinguishing limitations.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT W. HORN whose telephone number is (571)272-8591. The examiner can normally be reached on Monday-Friday 7:00-3:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin G. Enad can be reached on 571-272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Robert W Horn/  
Examiner, Art Unit 2832  
December 7, 2009

/Jeffrey Donels/

Primary Examiner, Art Unit 2832